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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,084	03/16/2001	Mark Nelson	NLN 301	7370

7590 05/28/2004  
Robert D. Varitz P.C.  
2007 S.E. Grant Street  
Portland, OR 97214

EXAMINER
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JAGAN, MIRELLYS

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/810,084	NELSON ET AL.	
	Examiner	Art Unit	
	Mirellys Jagan	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claim 20 have been considered. However, upon reviewing the last Office action, the Examiner has noticed that the rejection stated in paragraph 5 contains a typographical error because the rejection was intended to be for claim 21, and not claim 20 as indicated in the action. The corrected version of the rejection is presented below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Thompson.

Hoffman discloses a workpiece surface-gripping device that is attachable to the outer end of an elongate generally planar linear measuring tape (746) having a long axis, the device comprising a circular body (756) having a planar central body expanse with an outer edge forming a circular perimeter, and a mounting structure (758) joined to the body expanse centrally relative to the perimeter, the mounting structure accommodating a releasable mounting of the device on the tape at a location adjacent the tape's outer end. Hoffman discloses that the body extends traverse to the lengthwise edge of the tape in order to facilitate orienting the tape and

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reading the tape indicia when measuring. The body may also be of different shapes (see figures 10 and 11, and column 6, lines 20-34).

Hoffman does not disclose the body having an elongate, substantially annular continuous perimeter structure formed of a row of plural, spaced, projecting teeth projecting adapted to grip a surface of a workpiece and extending normally in one direction from and relative to the body toward the tape and distributed along the perimeter of the body to substantially circumsurround the tape's axis such that they are on opposite sides of the tape's nominal plane.

Thompson discloses a planar workpiece surface-gripping body (8) joinable to a measuring tape outer end, the body utilizing a perimeter structure formed of a row of projecting teeth projecting normally in one direction from and relative to the body toward the tape and distributed on and along the edge of the body for contacting and gripping the far surface of a workpiece. Thompson teaches that it is beneficial to place the row of teeth on and along the edge of the body in order to firmly grip an article to be measured to facilitate taking measurements.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the body disclosed by Hoffman by adding a row of teeth on and along the edge of the body, as taught by Thompson, in order to grip a workpiece surface more securely while taking measurements.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device disclosed by Hoffman and Thompson by providing additional teeth such that the teeth extend around the entire perimeter in order to provide more teeth to create a larger gripping surface and more firmly grip an article to be

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measured, and since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. See St. Regis Paper Co. v. Bemis Co., 193


***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 9AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
May 26, 2004

  
**Diego Gutierrez**  
**Supervisory Patent Examiner**  
**Technology Center 2800**